

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VICTOR MANUEL QUINTERO,

Petitioner,

v.

TRISTAN LEMON,

Respondent.

Case No. 1:22-cv-01568-JLT-SAB-HC

ORDER GRANTING PETITIONER'S
MOTION TO STAY

(ECF No. 15)

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

In the petition, Petitioner challenges his 2018 Kern County Superior Court convictions voluntary manslaughter and other offenses. (ECF No. 1.) Respondent has filed an answer to the petition, and Petitioner has filed a traverse. (ECF Nos. 10, 14.)

On May 10, 2023, Petitioner filed the instant motion to stay while his California Senate Bill ("SB") 775 petition is pending in state court. (ECF No. 15.) The Kern County Superior Court found Petitioner made a prima facie showing, issued an order to show cause, and will hold an evidentiary hearing to determine whether the voluntary manslaughter conviction should be vacated and Petitioner should be resentenced. To date, Respondent has not filed any opposition or statement of non-opposition to the motion to stay, and the time for doing so has passed.

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Given that the state court's resolution of Petitioner's SB 775 petition may vacate a conviction that is challenged in the federal habeas petition, the Court finds that the objective of judicial efficiency is served by staying the instant proceeding pending resolution of Petitioner's SB 775 petition in the Kern County Superior Court.¹

Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner's motion to stay (ECF No. 15) is GRANTED;
2. This matter is STAYED;
3. Petitioner is DIRECTED to file a status report within thirty (30) days of the date of service of this order and every ninety (90) days thereafter; and
4. Within thirty (30) days following the Kern County Superior Court's order resolving Petitioner's SB 775 petition, Petitioner shall notify the Court so that the stay may be lifted and the case proceed.

Petitioner is forewarned that failure to comply with this order will result in the Court vacating the stay.

IT IS SO ORDERED.

Dated: June 20, 2023


UNITED STATES MAGISTRATE JUDGE

¹ The Court notes, however, that such a stay should not be indefinite, and the Court may revisit the stay in the event that resolution of the SB 775 petition is unduly prolonged.